



# **FREDERICK COUNTY PLANNING COMMISSION**

**February 20, 2019**

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**TITLE:**

**Fall 2018 Cycle of Water  
and Sewerage Plan Amendments**

**REQUEST:**

**Finding of Consistency**

**PROJECT INFORMATION:**

WS 18-05 Bueso Forman & Myers, LLC  
WS 18-06 Town of Myersville  
WS 18-07 Division of Planning & Permitting

**STAFF:**

Tim Goodfellow, Principal Planner II

**RECOMMENDATION:**

Refer to Staff Reports

**ATTACHMENTS:**

Exhibit 1 Staff Reports  
Exhibit 2 Applicants' Submissions



# Frederick County Division of Planning and Permitting Staff Report

## Water and Sewer Plan Amendments Fall 2018 Cycle

WS 18-05: Bueso Forman & Myers, LLC  
WS-18-06: Town of Myersville  
WS-18-07: Division of Planning & Permitting

### **ISSUE**

The Planning Commission is requested to review the amendments for a finding of consistency with the County Comprehensive Plan or a municipal comprehensive plan.

### **BACKGROUND**

The purpose of the Planning Commission's review is to determine whether each amendment request is consistent with the County Comprehensive Plan or the appropriate municipal comprehensive plan. The Land Use Article of the Annotated Code of Maryland defines consistency with the comprehensive plan as addressing the location, character, and extent of the request. A finding with regard to consistency may reference the comprehensive plan map and the text document, specifically the goals and policies. For properties located within a municipality the municipal comprehensive plan and municipal land use plan designation is referenced.

A finding of consistency does not reference whether a case meets the specific criteria, described in the Water and Sewerage Plan, for the requested classification. That determination is made by the County Council in their review.

If the Planning Commission finds a request to be inconsistent with the comprehensive plan then the request is not forwarded to the County Council.

### **RECOMMENDATION**

Staff recommendations are noted in the individual case descriptions.

## **IV. COUNTY WATER AND SEWERAGE PLAN CLASSIFICATION SYSTEM**

### **A. General**

A classification system has been established for properties that will be served by publicly owned community water and sewer systems. The classification system reflects a progression toward the attainment of public water and sewer service so as to implement the County Water and Sewerage Plan, as well as County or municipal Comprehensive Plans.

The classification system is designed to show need and intent of the County, its municipalities and the private developer for establishing or extending publicly-owned community water and sewer systems.

Classifications which indicate anticipated improvements within the next six (6) years should be part of an action plan to be implemented within the constraints of funding and various required agreements and approvals. The classification system is not intended to prevent development of publicly-owned community water and/or sewerage systems or facilities prior to or later than the time periods indicated; rather it is the best estimate at the time of adoption as to when such development may be expected to occur. Every effort should be made by the County, municipalities, and developers to progress with water and sewer projects to the point that construction may occur in accordance with the Plan. However, after having achieved one level, there is no guarantee that the next level classification will be granted.

### **B. Water and Sewerage Plan Classifications:**

Tracts of land where publicly-owned community water and/or sewer facilities are proposed to be extended by developers or where the County or municipalities anticipate that development may occur within 20 years may be assigned a classification with the suffix "Development" or "Dev.". A "Dev." designation means that the extension or construction of publicly-owned community systems or facilities is dependent upon developer or land owner action and funding.

The year of adoption of a piecemeal Water and Sewerage Plan amendment is noted within the water and sewer classification designations for properties in 4 and 3 categories, (e.g. 90-S-3 means the sewer priority classification of S-3 was approved by the County in 1990).

#### **NPS – No Planned Service:**

A classification assigned during the Comprehensive Planning Process to land, which is not planned or projected to be served by publicly-owned community water or sewer systems within the timeframe of the current County Comprehensive Plan.

#### **PS – Planned Service:**

A classification assigned during the Comprehensive Planning Process to an area shown on the Comprehensive Plan for growth utilizing publicly-owned community water and/or sewer systems, or within the Community Growth boundary of a community to be served by public water and sewer in the adopted County Comprehensive Plan, within the 11-20 year time period. Properties within this classification have designations other than Agricultural/Rural or Natural Resource on the County Comprehensive Plan.

#### **S-5/W-5 – Mid-Range Plan Phase:**

A classification assigned through the Comprehensive Planning Process where improvements to, or construction of, publicly-owned community sewerage or water



systems are planned within the 7-10 year time period. Properties classified S-5/W-5 are not required to, but may, connect to the community system. Properties requesting this classification shall meet the following criteria:

- a. Have a land use plan designation other than Agricultural/Rural or Natural Resource on the County Comprehensive Plan.
- b. Have zoning other than Agricultural or Resource Conservation.
- c. If located within a municipality where the municipality provides community water and sewer, the property shall be designated in the municipal plan to be provided services in the 7-10 year time frame.
- d. Be located within a Planned Service Area as shown on the Frederick County Water and Sewerage Plan map.
- e. Demonstrate that there is sufficient capacity planned in the systems serving the property within the 7-10 year period.

This classification may be assigned through the piecemeal application process to property:

- 1) Annexed into a municipal corporation; or
- 2) Granted a Planned Unit Development (PUD) or Mixed Use Development (MXD) floating zone classification; or
- 3) Zoned Agricultural, if all the criteria set forth above and in Section II (E)(8) are satisfied; or if applicable, Section II (E)(7) are satisfied; or
- 4) To provide public water and/or sewer service to Public Service Facilities, if applicable criteria in Section II (E) (8) are satisfied.

**S-4/W-4 – Concept Evaluation Phase:**

A classification assigned through the piecemeal application process to properties having an S-5/W-5 classification, and designated residential, commercial, or industrial, or in general, a category other than Agricultural/Rural or Natural Resource on the most recently adopted County Comprehensive Plan, and where improvements to, or construction of, publicly-owned community sewerage or water systems are planned within the 4-6 year time period. Properties classified S-4/W-4 shall connect to the public system when service lines abut the property. Properties requesting this classification shall meet the following criteria:

- a. The criteria required for the S-5/W-5 classification have been met.
- b. The application shall include documents that show conceptually how the applicant plans extensions of water and sewer lines to serve the property, including topographic information from appropriate sources and an estimate of construction costs. Water concept submissions shall consider the County's water pressure zones to develop the concept, e.g., water booster pumping stations or pressure reducing valves. Sewerage concepts shall consider gravity service as the preferred method (see II (E) (5) (E)). All concept plans shall distinguish between County planned and developer provided facilities.

- c. Adequate capacity shall exist or be programmed within the County or a municipal CIP for the system, which will serve the site. If adequate capacity does not exist, the property owner will either wait for public improvements to be programmed or propose how such service can be provided by the developer/applicant.
- d. After a S-4/W-4 classification has been granted, an application may be submitted to the Maryland Department of the Environment for Water and/or Sewerage construction permits, as applicable.

**S-3/W-3 – Preliminary Design Phase:**

A classification assigned through the piecemeal application process to properties where improvements to, or construction of, publicly-owned community sewer or water systems are planned to be completed and operational within 3 years. If applicant has not obtained approved water and sewer improvement plans for onsite work within three years or the Preliminary Plan/Site Plan/Phase II Plan expires, they may lose their “3” classification and revert to the “4” classification at the next amendment cycle. Properties classified S-3/W-3 shall connect to the public system when service lines abut the property. Properties requesting this classification shall meet the following criteria:

- a. Criteria required for the S-4/W-4 classification have been complied with.
- b. Applicant shall provide a study of the components of the existing water and wastewater system and identify inadequacies that may result from the development of the property. This study may be performed in conjunction with the *Adequate Public Facilities Ordinance* (APFO) studies.
- c. A preliminary subdivision plan, site plan, or Phase II Plan (in the case of PUDs and MXDs) has been approved by the Planning Commission.
- d. A discharge permit, where appropriate, has been approved by all appropriate State agencies.
- e. A hydrogeologic study, where appropriate, supports the establishment of a community water system, which will not be detrimental to adjoining wells or surface waters. The hydrogeologic study is typically required to appropriate both ground (well) or surface waters. A Water Appropriation and Use Permit, where appropriate, has been approved by all appropriate State agencies.
- f. If County funded CIP project(s) are needed to provide service, then construction funds for each project must be contained in the first or second year of the County's approved CIP.
- g. If service is to be provided by developer initiated and funded projects, the developer must have approved and signed water/sewer improvement plans and an approved cost proposal for all improvements required to bring adequate water and sewer service to the site. This “service to the site” requirement is considered “met” if adequate water and sewer lines abut the site and are located within a public right-of-way or a public water/sewer



easement which abut the site.

- h. Satisfaction of Items f. and g. will create a rebuttable presumption in favor of the applicant that service will be available within 3 years.

**S-2/W-2 – Engineering Phase:**

This classification is not mapped. Properties are assigned this category by County staff and shall meet the following criteria:

- a. All criteria required for the S-3/W-3 classification have been complied with.
- b. Improvement plans for water and sewer lines and preliminary design of treatment plants and other infrastructure, as appropriate, have been approved.
- c. Location of facilities, i.e. tanks, pumping stations, treatment plants have been located on the Water and Sewerage Map by prior amendment.
- d. Properties classified S-2/W-2 shall connect to the publicly owned system when service lines abut the property.

During the S-2/W-2 phase, final construction design drawings and documents are prepared, rights-of-way are determined and the necessary acquisitions are pursued, various construction related permits are applied for and obtained, a public works agreement, allocation of taps including multi-year tap agreements and improvement guarantees are approved.

Final plats may then be recorded, where appropriate.<sup>1</sup>

**S-1/W-1 – Existing Service:**

A classification assigned to properties where publicly-owned community sewer or water systems are existing and are connected to and serving a structure on the property. Properties are assigned this classification by County staff to reflect projects recently completed or structures connected to the public water or sewer system. The County Water and Sewerage Plan map will be revised to reflect this status at regular updates.

**Multi-Use Water System:**

A classification assigned during the piecemeal application process to a single parcel or lot utilizing a water supply system having the capacity to supply more than 5,000 gallons of water per day and serves a number of individuals.

**Multi-Use Sewerage System:**

A classification assigned during the piecemeal application process to a single parcel or lot having a maximum discharge or output capacity in excess of 5,000 gallons per day.

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<sup>1</sup> See Sec. 1-16-106 of the County Code for additional requirements.

WATER & SEWERAGE PLAN AMENDMENTS  
Fall 2018 Cycle

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**STAFF REPORT**

**Case # WS-18-05**

**APPLICANT:** Bueso Forman & Myers, LLC

**REQUEST:** Reclassify 1.54 acres from W-5/Dev., S-5/Dev. to W-3/Dev., S-3/Dev.

**LOCATION:** Northwest intersection of Mussetter Road and Old National Pike  
(Tax Map 79, Parcel 27. Property ID#09-225706)

Comprehensive Plan — General Commercial (GC)

Zoning — General Commercial (GC)

Development Status — The site currently contains a residential dwelling with several accessory structures. A Site Development Plan (Dynamic Automotive) was approved by the Planning Commission on October 10, 2018 for a 5,400 square foot automotive repair and service facility. The existing residence will be removed.

Water & Sewerage Plan Status — A service connection will be made to the existing 18-inch public water line within an easement along the northern property line. Public sewer to the site will be made via an extension of the existing 8-inch sewer line, located approximately 85 feet to the northwest of the subject property.

**STAFF RECOMMENDATION:**

The subject property is located within a community growth area and within a water and sewer service area. Staff recommends the Planning Commission make a finding of consistency with the County Comprehensive Plan.

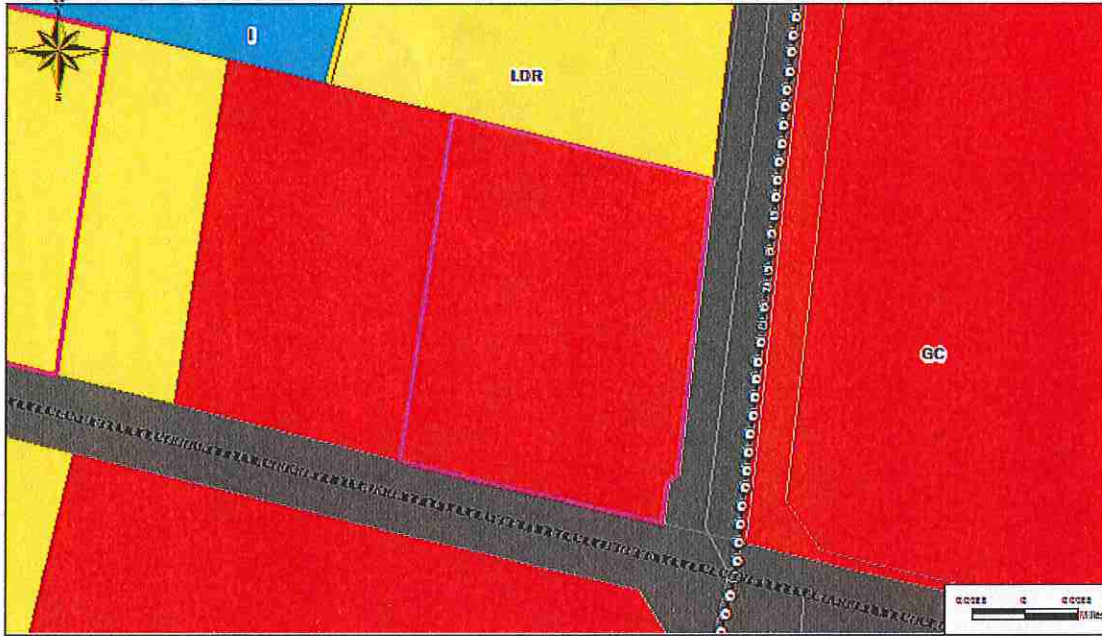




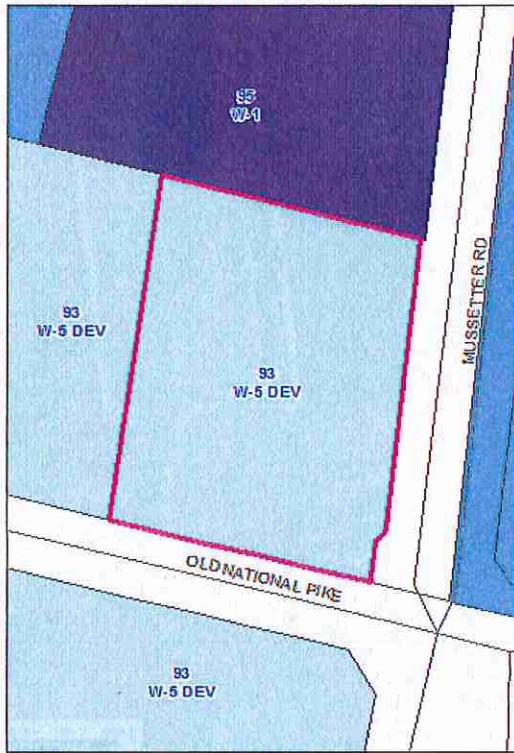


WS 18-05

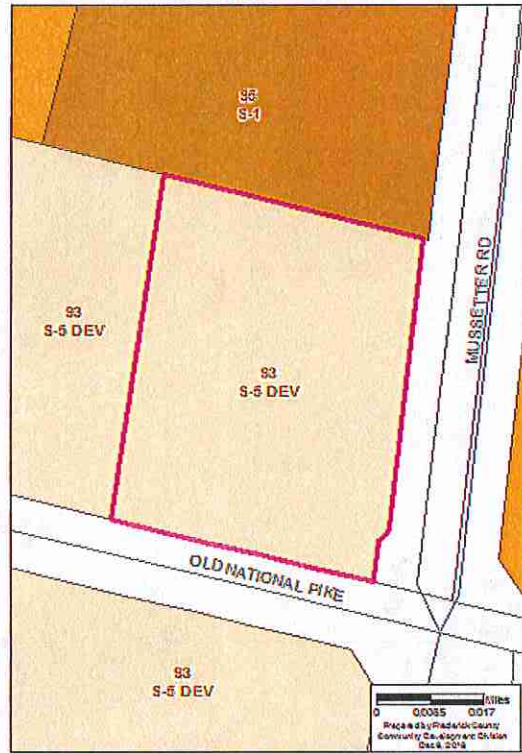
Comprehensive Plan



Water Plan



Sewerage Plan



WATER & SEWERAGE PLAN AMENDMENTS  
Fall 2018 Cycle

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**STAFF REPORT**

**Case # WS-18-06**

**APPLICANT:** Town of Myersville

**REQUEST:** Reclassify 21.7 acres from W-4/Dev, W-5/Dev. & S-4/Dev., S-5/Dev. to W-3/Dev., S-3/Dev. and 2.8 acres from S-5/Dev. to S-3/Dev.

**LOCATION:** North side of Monument Road within the Town of Myersville  
(Tax Map 700, Parcel 258. Property ID#16-355569  
(Tax Map 700, Parcel 258, Lot 1. Property ID#16-363073)

Comprehensive Plan — Residential (Town Comprehensive Plan, 2016)

Zoning — R-1 Residential (Town Zoning)

Development Status — The 21.7-acre site is the final section of the Meadowridge Knoll Subdivision to be developed, with the remaining 16 single-family lots approved by the Town Planning Commission in 2015. A 3-acre remainder parcel, open space and forest conservation easements are also included within the overall 21.7 acres. A developed, 2.8-acre lot (Lot 1, Stroup's Overlook), adjacent to the 21.7 acre parcel, will also receive public sewer service via a 20-ft. wide, strip of land owned by the Town that connects Meadowridge Drive to Lot 1.

Water & Sewerage Plan Status — Eight (8) inch public water and sewer lines are present in Meadowridge Drive and will be extended into the final section of the subdivision via the construction of the extension of Meadowridge Drive. A 12-inch water main and an 8-inch sewer line also bisect the property, as part of overall looping system. The Town has provided detailed capacity and allocation data for its systems, and a letter from the Mayor indicates sufficient capacity and the Town's intention to provide public water and sewer service to the two (2) subject properties.

**STAFF RECOMMENDATION:**

The subject property is located within a municipal growth area and a water and sewer service area. Staff recommends the Planning Commission make a finding of consistency with the Town of Myersville Comprehensive Plan.







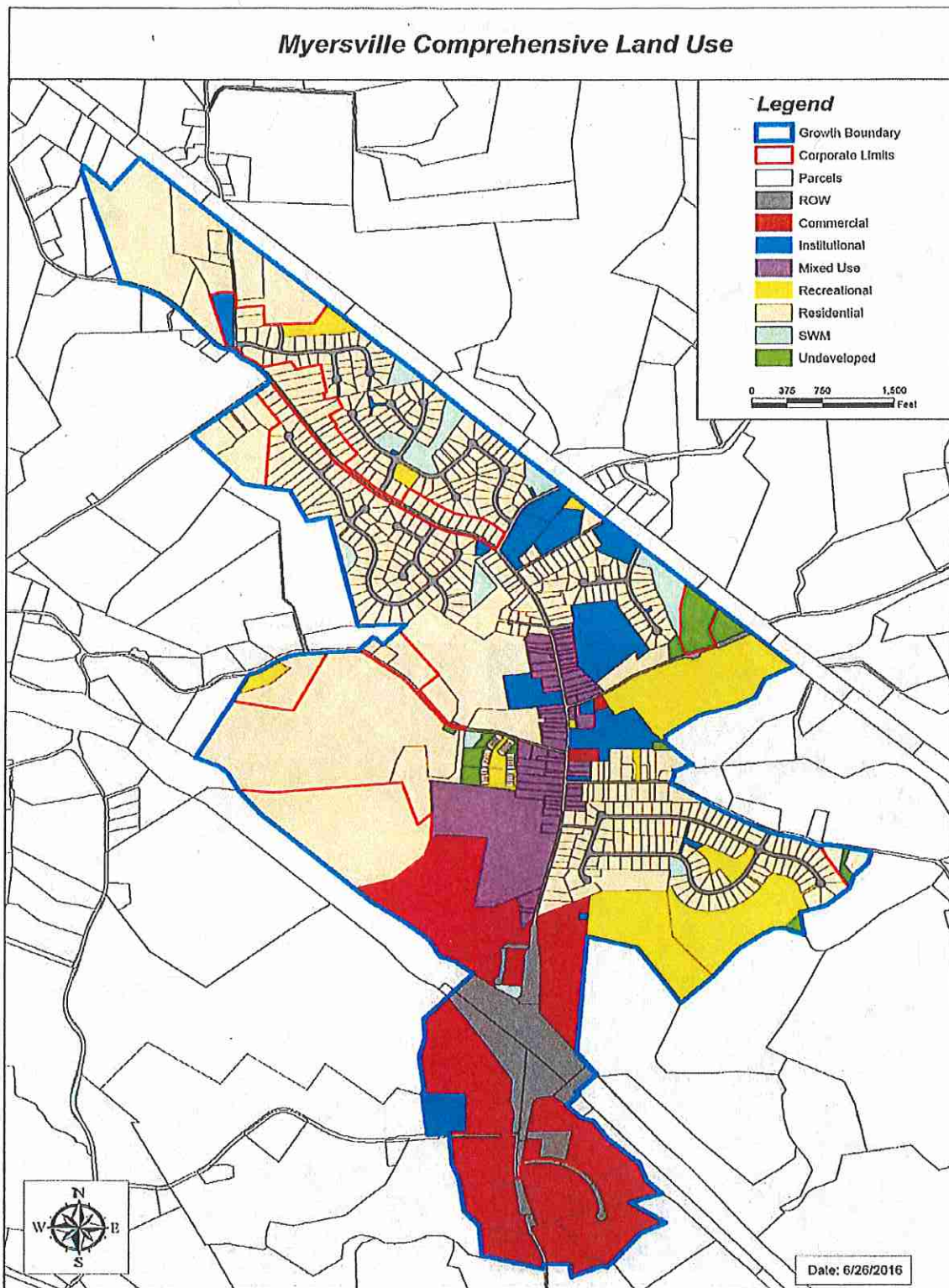
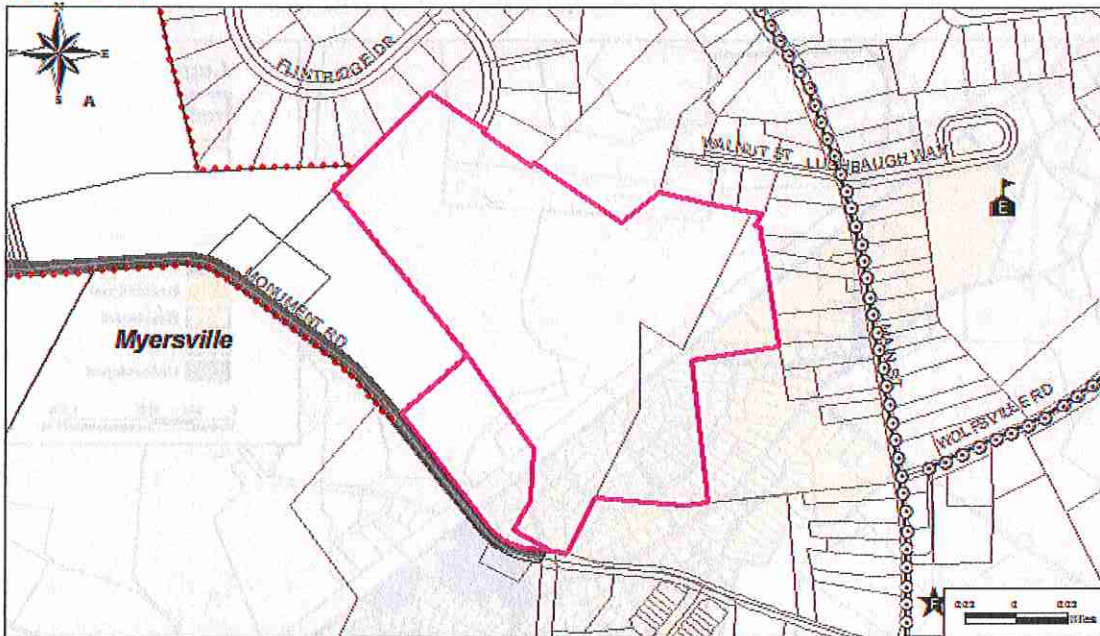


Figure 3: Myersville Comprehensive Land Use

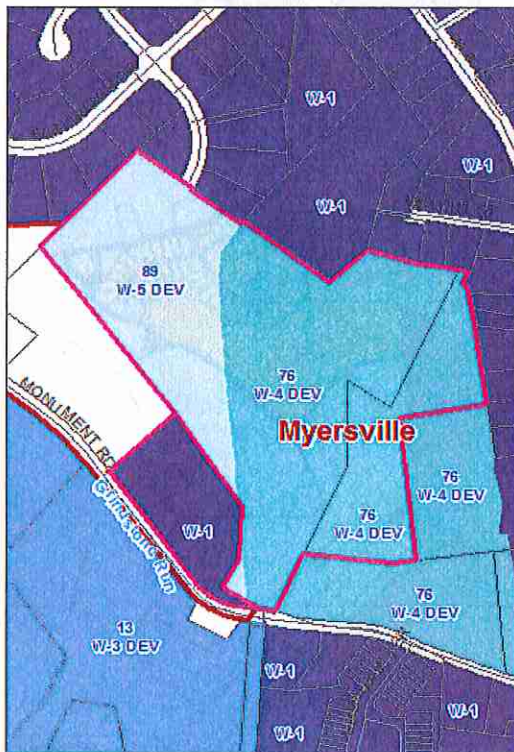
Adopted - August 1, 2016

WS 18-06

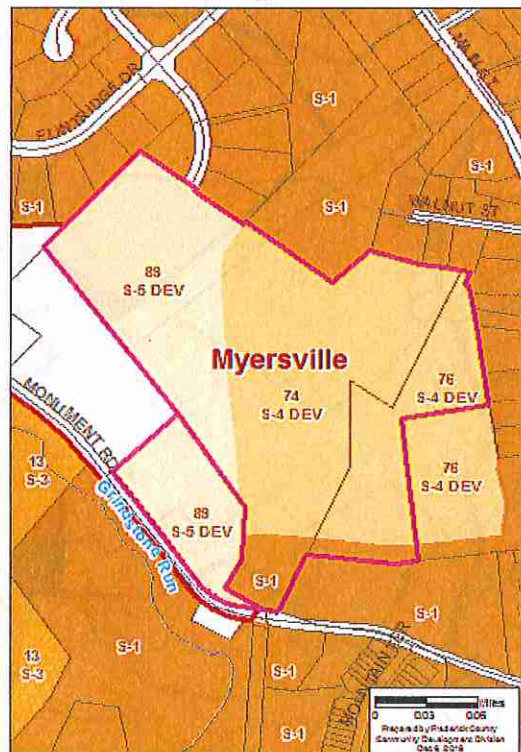
# Comprehensive Plan



## Water Plan



## Sewerage Plan





WATER & SEWERAGE PLAN AMENDMENTS  
Fall 2018 Cycle

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**STAFF REPORT**

**Case # WS-18-07**

**APPLICANT:** Division of Planning & Permitting

**REQUEST:** Text Amendment to Chapter 1 – Policies and Procedures, Section II – Goals and Policies for Water and Sewer Planning, E., 7. Denied Access Lines

**BACKGROUND**

This text amendment to the Water and Sewerage Plan proposes to allow denied-access water and sewer lines to be utilized to serve properties Zoned Institutional as of December 31, 2018. The denied-access policies in the Water and Sewerage Plan provide very limited opportunities for properties to connect to denied-access lines in order to direct growth and development to appropriate locations, consistent with the County Comprehensive Plan.

Some of the County's Community Growth Areas (CGA) are geographically isolated and distant, hence the County's water and sewer distribution, collection, and conveyance infrastructure is widely dispersed to accommodate development in the County's designated growth areas. Water and sewer transmission lines which pass through areas outside of a CGA are designated "denied-access" in order preserve capacity and to maintain a focus for new development within growth areas on public water and sewer, in accordance with the Comprehensive Plan.

Section 1-19-5.260 of the Zoning Ordinance establishes the Institutional Zoning District and its application to colleges, universities, public schools, and private schools, as well as private schools in conjunction with a place of worship and residential treatment centers in conjunction with a private school. The application of the Institutional Zoning District was first applied in 2010 during the Comprehensive Plan update and Comprehensive Rezoning to the aforementioned uses that previously had Agricultural zoning. Section 1-19-5.260 also applied Institutional zoning to continuing care retirement communities (CCRCs) within the R-1 and Agricultural Zoning Districts, in existence or with site plan approval on June 15, 2009.

Institutional uses on properties with Institutional Zoning outside of a CGA typically rely on private wells and on-site sewage disposal systems (septic systems), even when they may be adjacent to public water and sewer lines, because they are outside of a Community Growth Area. Institutional uses with large septic systems have the potential to discharge Nitrogen pollution to ground and surface waters that is an order of magnitude higher than what it would be if the effluent was treated at a wastewater treatment plant with enhanced nutrient removal (ENR) technology. For example, national data indicates that septic tank effluent from educational institutions can have total Nitrogen concentrations of 72 mg/l, compared to 4 mg/l of total Nitrogen in discharges from a wastewater treatment plan with ENR technology.<sup>1</sup>

The State of Maryland, through the Sustainable Growth and Agricultural Preservation Act, SB 236, ('Septic Bill') approved in 2012, has sought to minimize the number of septic systems for residential subdivisions to address nutrient pollution to waterways and, ultimately, the Chesapeake Bay. While the Septic Bill does not address non-residential uses on septic systems, this proposed amendment would allow existing uses and structures, and structures to be built in the future on properties zoned Institutional as of December 31, 2018, to connect to denied-access water and sewer lines and thereby avoid the use of large septic systems that would discharge significant amounts of nutrients to the ground and surface waters.

It is important to note that this Water and Sewerage Plan text amendment is specifically targeted to properties with existing Institutional zoning, and would not in any way facilitate connection to denied access lines for residential or commercial developments outside of a Community Growth Area.

<sup>1</sup> Water Environment Research Foundation, Influent Constituent Characteristics of the Modern Waste Stream from Single Sources: Literature Review 2007.

## RECOMMENDATION

Staff recommends that the Planning Commission determine this proposed amendment is consistent with the County Comprehensive Plan. It could be found to support the following policy contained in the Comprehensive Plan.

*WR-P-04 Minimize new development utilizing individual well and septic systems to protect the quality and quantity of groundwater resources*

*WR-G-02 Protect and enhance the quality of Frederick County's surface waters, ground water resources and wetlands*

*WR-G-03 Invest in water and sewer infrastructure that will provide adequate treatment capacity and reduce pollutant loading in rivers and streams*

*WR-P-14 Recognize and support the use of new septic system technologies and the use of alternatives to septic systems*

*NR-G-01 Protect natural resources and environmentally sensitive areas in Frederick County*

*NR-G-03 Manage growth and land development in Frederick County in a manner that is in harmony with the conservation and protection of our natural environment*

*NR-P-04 Encourage inter-agency and inter-jurisdictional cooperation and coordination of environmental protection plans and actions*

*PU-P-08 Consider, and when appropriate, encourage the use of well-demonstrated alternative technologies and methodologies for the treatment of wastewater (sewage) both municipal and private on-site disposal systems*



# Water and Sewer Plan Text Amendment

## Chapter 1 – Policies and Procedures

### II. GOALS AND POLICIES FOR WATER AND SEWER PLANNING

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#### E. General Policies

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#### 7. Denied Access Lines

In order to properly regulate development and direct growth to appropriate locations in accordance with the Frederick County Comprehensive Plan, properties designated Agricultural/Rural, **Institutional**, or Natural Resource and located outside of a Community Growth Area on the County Comprehensive Plan will not be permitted to access lines identified as "Denied Access" on the official Water and Sewerage Plan Map except under one of the following conditions:

- (A) To provide service to areas planned for water and sewer service on the Water and Sewerage Plan Maps and County Comprehensive Plan.
- (B) To provide service to properties where a written agreement with the County, executed prior to the creation of the Denied Access designation, obligated the County to permit access to the particular line to provide service to a specific property.
- (C) To provide service to areas where the Health Department determines access is necessary to solve an existing Health related problem and the County Governing Body agrees to permit access to the line.
- (D) To provide service to Public Service Facilities.
- (E) **To provide public sewer service to parcels with Institutional Zoning (Euclidean) as of December 31, 2018, in order to reduce the level of nutrient pollution discharged to groundwater and surface waters, where an Individual Sewerage System would have the potential to discharge more than 200 pounds of nutrients (total nitrogen) per year, provided that:**
  - 1) **The Institutional Zoned parcel also connects to public water to avoid recharge imbalance, unless the Applicant can demonstrate to DUSWM's satisfaction that connection to public water is not economically feasible; and**
  - 2) **The Applicant relinquishes and assigns to the County, if allowed by the issuing authority, all discharge or appropriation permits issued by federal, state or local governments; and**
  - 3) **All existing and future structures or facilities located in the parcel must connect to public sewer and water unless the connection to public water is not required pursuant to (E)(1) above.**

Any change to the status of all or a portion of a Denied Access line will require consistency with the County Comprehensive Plan and an amendment to the Water and Sewerage Plan as described in the "Review and Amendment Procedures" of this Plan. Properties and uses that are eligible to be served by a Denied Access line shall apply for an appropriate Water and Sewerage Plan classification amendment as described in Section III Review and Amendment Procedures.

### III. REVIEW AND AMENDMENT PROCEDURES

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#### B. Amendment Procedures

The governing body of the County may amend the County Water and Sewerage Plan when necessary or when Maryland Department of Environment requires it.

[Subsections (1) and (2) remain unchanged]

#### (3) Piecemeal Application Process:

- (a) Applications for amendments to the Water and Sewerage Plan for Frederick County, including its incorporated municipalities, may be submitted at any time. Applications received are processed in three cycles, Spring (deadline March 31<sup>st</sup>), Summer (deadline July 31<sup>st</sup>), and Fall (deadline November 30<sup>th</sup>).

The County Governing Body may at their discretion initiate amendments to the Water and Sewerage Plan outside of the tri-annual review sequence when necessary; (i) To allow service to an existing structure from an existing system when a potential health hazard has been declared by the Health Department, or (ii) To allow requests submitted by a government agency or for capital projects to proceed.

- (b) Applications for proposed amendments to the County Water and Sewerage Plan and supporting documents, shall be submitted to the Frederick County Community Development Division, 30 North Market Street, Frederick, Maryland, 21701.
- (c) Requests for amendments to provide service to properties with a land use plan designation of Agricultural/Rural, **Institutional**, or Natural Resource on the County Comprehensive Plan are not in conformance with the County Comprehensive Plan and will not be accepted, unless service is permitted pursuant to Section II. E. 7. Denied Access Lines.

[Subsections (3) (d) through (3) (k) remain unchanged]